

DISTRICT V ADVISORY BOARD
Minutes
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October 3, 2005
7:00 p.m.

Auburn Hills Golf Course Clubhouse
443 S. 135th West

Eight (8) District Advisory Board Members attended the District V Advisory Board meeting. Also in attendance was five (5) City staff. Approximately 15 members of the public were present with 10 signing the sign-in sheet.

Members Present

David Almes
Bob Bulman
David Dennis
Maurice Ediger
Jerry Hoggatt
Andy Johnson
DeAnn Sullivan
Ann Wellborn
Council Member Bob Martz

Members Absent

John Marker
Steve Winslow

Staff Present

Officer Bradley Haught, Police
Kurt Schroeder, Central Inspection
Sarah Gilbert, Career Development
Captain Max Tenbrook, Police
Dana Brown, City Manager's Office

Guests

Listed on page 8

Call to Order

Bob Martz, City Council Member, called the meeting to order at 7:08. He welcomed the public and explained that the role of the District Advisory Board was to advise him on district and citywide issues. He stated that all people who wished to speak would be given the opportunity at some point during the meeting and requested that they wait to be acknowledged before speaking as well as refrain from disrespectful comments or actions while others were speaking. In addition, the Council Member said that any issues not appearing on the agenda could be presented on the Public Agenda later in the meeting.

The minutes of the August 1, 2005 and September 6, 2005 were approved as written. The agenda for October 3, 2005 was approved with the addition of a report from the Division of Police **Professional Standards** to the public agenda.

Jerry Hoggatt and David Almes arrived.

Staff Reports

Community Police Report

Community Police Officer Bradley Haught, Beat 199, reported for all police beats in District V including portions of 16 and 18, and all of 19 and 199. He said a decrease had occurred in the number of larcenies and residential burglaries. Non-residential burglaries had increased and robberies were about the same.

Officer Haught said that an offender in a residential burglary at an open garage on Meribeu had been apprehended after he took several pieces of equipment to re-sell. Three incidents had occurred in the area that same day. In addition, five burglaries had occurred in Beat 19 and three in Beat 199. Of these eight, two were aggravated burglaries in residences. Three people have been arrested in connection with these crimes.

Reported also was an indecent exposure issue re-occurring at the Sonic on 21st Street which had been resolved. The offender was found to be a registered sex offender from another county.

Incidents of the use of pellet guns were reported in the Kellogg, Central, & Central & Tyler area. Some incidents had been close to or on school grounds. In those cases, the school security and School Resource Officers typically respond. **Wellborn** reported that this had occurred at Benton Elementary on September 30th and police had apprehended the youth involved.

A question came from the **Board** on whether targeted items are involved in the residential garage burglaries and if the incidents involved the burglar going into the home. **Officer Haught** said no particular items are targeted; just any items that could be resold. The burglaries typically occurred during the day.

Recommended Action: Receive and file

Unfinished Business

Meadow Park Encroachment

Kurt Schroeder, Office of Central Inspection, reported on the OCI permitting process for David McClanahan, 434 S. Firefly, to construct a shed on his property. Schroeder explained that a building permit is required to build a shed on skids, such as the one at the subject address. He said a contractor is typically involved and responsible for obtaining the permit but the owner-occupant could also apply, which was the situation in this case.

When this application was made, OCI staff specializing in building plans reviewed the site plan and consulted the plat book, a document that provides information on plat and easement sizes. The building plan showed a 12' x 16' (192 square feet) mobile shed to be built on skids; the submitted site plan showed that the entire shed was to be erected on Mr. McClanahan's lot, at least 2' from the rear property line that abuts the park. The site plan also showed that the shed was to be erected on the 20' easement on Mr. McClanahan's property at the rear of his lot. In this situation, the 20' easement is located entirely on the private lots that back up to and abut The Meadows Park. The applicant also obtained the appropriate approval letters from the utility companies that had rights to use the easement, based on the building plan submitted to OCI (a standard procedure for placing any portion of a skidded structure on an easement). The permit approval for the plan provided was then granted and information given to the applicant about inspection requirements, and the applicant was instructed to call OCI for an inspection after the shed was installed. OCI's permit records indicate that the property owner never called OCI for any inspections after installation, and that no OCI inspection was ever completed on the permit.

Providing additional history, Schroeder said Park & Recreation staff notified him in early spring 2005 that the structure had been built on the adjacent easement belonging to Park & Recreation Department. An inspection showed that a fence had been built on or near the McClanahan rear property line and that the entire shed was placed outside the fence on what appeared to be Park property. Other property owners had placed additional items on the easement adjacent to the

easement; however, all but the shed could be easily removed. The property owners were notified by the City in April to remove the items within 30 days. In April and May 2005, OCI also issued notices to the McClanahans directing the owners to move the shed onto their own private property as required by the building permit. All but McClanahan complied but he was given additional time by Park & Recreation to have the structure removed by the end of May. McClanahan then met with Schroeder, explaining that he did not have adequate space in his backyard to build the shed. Park & Recreation determined that action by the City would be deferred until the issue could be presented to the District V Advisory Board for recommendation.

Board Members asked for clarification about the permitting process including differences in building permit forms for stick built and prefabricated sheds. Schroeder explained the permit form for stick built structures includes the need for OCI inspection sign-offs on a permit “job card” at certain points during construction. Small, portable sheds on skids normally require only a single inspection after installation to assure that the shed has been installed in accordance with the approved permit and site plan. Also clarified was the result of a property survey that showed that only about 6 inches of one side of the structure is on the McClanahan property.

Hoggatt informed the Board about his experience of being the developer for the Maple Valley area and working directly with a previous Park & Recreation Director, Frank Smith. He believed the agreement with the City was to share the 20-foot wide easement that runs between the residential properties and the park, giving each the rights to use half of the easement on their adjacent side. Hoggatt said that until this issue came up, he thought this to be true and the area had been used by the Maple Valley Homeowners Association (HOA) for picnics and get-togethers based on that belief. He requested that before the Board makes a recommendation on the McClanahan shed that he be given 30 days to work on accomplishing a shared use of the easement. If this could be changed, it would require McClanahan to turn the shed but leave it basically in place so only a few inches would be on the easement.

Hoggatt also explained that approval to build a structure requires approval of the Maple Valley HOA, as do many HOAs. In this situation, the approval committee reviewed and approved the plan to build the shed, as it would not obstruct other homeowners’ view of the wilderness area.

A motion was made and seconded to allow 30 days for Hoggatt to work with the appropriate parties to divide the ownership and use of the easement area. Motion passed 8-0.

Action: Defer final recommendation for 30 days.

New Business

Sexually Oriented Businesses

Kurt Schroeder, Office of Central Inspection, presented a conceptual overview of proposed United Zoning Code (UZO) and licensing ordinance amendments regarding adult entertainment or sexually oriented businesses for Board comment. Schroeder explained that although Chapter 3.05 of the City Code currently governs adult entertainment establishments, they are not defined or regulated through the Wichita-Sedgwick County UZO within the city.

Concerns were raised at the City Council workshop on February 1, 2005, about “societal evils” of adult entertainment or sexually-oriented businesses (SOBs) and their impact on public health, safety and general welfare of the citizens. In addition, the Codes governing these businesses

were considered outdated. As a result, the Council passed a moratorium on February 8, 2005, on issuing permits and licenses for these businesses in order for Council and staff to address the concerns.

In response, a conceptual overview was developed and presented to City Council in a workshop on July 26, 2005, including proposed amendments to the UZC and the existing adult entertainment licensing ordinance for sexually oriented businesses in the city. At the next City Council meeting, the Council extended the moratorium until November 15, 2005 to allow time for staff to refine UZC and licensing ordinance amendment language; present the proposed changes to District Advisory Boards for review and comment; and, present final proposed amendments to the Metropolitan Area Planning Commission for review and public comment.

Some fee increases are recommended as part of the proposed amendments but the increases are not expected to be significant. In addition, the amendments are being developed with guidance from the City's Law Department.

Schroeder then briefly reviewed the key conceptual proposed Unified Zoning Code changes outlined in the "Overview" provided to DAB members with the DAB agenda item.

The **Board** asked for clarification on the following:

- A sexually-oriented business currently located next to a church and residences on South Broadway. **Hinkel, Law Department**, explained the business was built first and the church chose to locate next to it.
- The use of the word "amortize" used in the proposed amendment for "nonconforming" businesses—Does this mean the businesses would be required to move at their own expense? **Jay Hinkel, Law Department**, explained that during the past six years, Kansas State Law had allowed "amortization" in response to a request from the Sedgwick County Commissioners. The state statute is silent on the time allowed for moving the business.
- Is eminent domain involved? **Hinkel** explained that with *eminent domain*, the property owners are compensated for their property taken for use as part of a public project. *Amortizing* allows a specific amount of time for the business owner to relocate. He said that most of the business owners impacted by the proposed amortization are leasing their building or space. Issues with lease agreements would likely be resolved due to the new zoning requirements of the ordinance.
- Would the City adopt the County's regulations? What the City would adopt as a definition in the UZC would be very similar in scope to the County's UZC definition. The Adult Cabaret definition ~~license~~ would be added because no definition existed for the County (**Schroeder**).
- How do the County's regulations compare to the proposed 500-foot requirement from a church, school, public park, day care center, or residential zoning district for location of SOBs? **Hinkel** stated that the County restricts location of SOBs to at least 1,000 feet from schools, churches. A smaller separation distance is suggested for the City due to greater intensity of land use within the City boundaries.
- How many businesses/licenses would be affected? **Schroeder** said approximately 16 licenses were involved and probably half would be nonconforming to the new UZC requirements as proposed, and subject to "amortization"

Council Member Martz told about a previous issue as an example of the current dilemma of no existing regulations and why some language in the Code is needed to help protect certain areas.

The **Board** expressed the following concerns:

- Rights of business owners even though several Members clarified they were not supportive of the business types.
- General concerns about “amortization” – several members were concerned about the general concept and some suggested that the length of time for the “amortization” should be significantly longer than one year
- Potential law suits against the city
- Need to protect investments in Old Town, Core Area, and Arena
- Need to make sure the city can grow and prosper while protecting the children
- Consideration of license infractions by the business when renewing license
- Allowing a church or school to move within 500 feet should not require the business to move

Action: Comment was provided in the information included in the above section.

Council Member Martz asked Kurt Schroeder about an additional issue on signage, as reported to him. Schroeder was asked to check on whether a large sign on the southwest corner of the Central & 119th intersection had been permitted. **Schroeder** said there were a multitude of regulations for signage and that he would follow up on it.

Community Services Block Grant (CSBG) Review Committee

Sarah Gilbert, Career Development Services, presented information on the City’s use of CSBG federal funding to support the Neighborhood City Halls, the Summer of Discovery program coordinated by Park & Recreation, and pharmaceuticals for the Project Access health care program.

As part of the federal regulations, a twelve-member board is required with membership based in the District Advisory Boards to advise the City Council on use of the funds. Four members represent low-income residents from the quadrants of the city and county that correspond to DABs I, III, IV, and VI. Four members are appointed to represent the City Council and the remaining four members represent the community sectors of business, industry, labor, religious organizations, welfare, and education. Each DAB needs to provide 1-3 members for the committee. The Review Committee meets 4 times annually at 3:30 p.m. at one of the Neighborhood City Halls.

Gilbert then asked that any DAB V Members interested in serving on the Review Committee and could represent one of the identified sectors to complete a nomination form.

Action: Board Members David Dennis and Jerry Hoggatt completed nomination forms to be appointed or stand for election to the CSBG Review Committee.

Petition to Pave University, between Maple Lane and Arapaho

Steve King, Public Works Engineering, presented a new petition to pave University as a connecting road between Maple Lane and Arapaho Drive as previously requested by the District Advisory Board. King reported that the signatures on the new petition represent 7 of 25 (28%) resident owners and 61.22% of the improvement district area

King gave a history of previous petition efforts to pave University to provide paved access to a partially developed residential area. He said that valid petitions had been received for each option of a cul-de-sac off Maple Lane, a cul-de-sac off Arapaho Drive, and a through street from Maple Lane to Arapaho Drive.

As requested by the DAB, the petitioner James Johansooz, 3240 Forest Lakes, had taken the petition to all residents in the improvement area and kept in contact with Public Works staff. The petition has been validated on a fractional basis and the assessment alternative totaling \$75,000 is recommended. This would require an estimated assessment of \$1,955 per tract for each individual property owner except the three owners of three unplatted tracts who would be assessed more.

Several **members of the public** expressed support for the petition while a resident at 334 Maple Lane opposed the petition and asked why the people across the street were not included. **Council Member Martz** explained that each resident is expected to help pay for two streets in their area, typically the one they live on and one that is adjacent to their street. One **resident** was concerned that not all of the residents received the notification and that at least two of the residents were recently deceased. **King** said the County records are typically about six months behind due to the volume of changes but the notification letters were sent by certified mail and his information showed that the residents received 13 of the 17 notices. **Mrs. Johansooz** said she took the petition to all residents in the improvement area, and two new residents were now living in homes included in the area.

It was noted that a total of 19 instead of 25 properties were listed in the assessment information, which would change the percentage of resident owners signing (7/19) to 37% instead of 28%, as shown on the map.

Bulman (Hoggatt) moved to support the recommendation as presented due to it being close to what was recommended the last time Public Works presented to the Board and the petition was valid with resident support. **Ediger** stated that he agreed with the recommendation in support of the city's policy to pave streets and encourage use of city water. **Dennis** said that a through street makes more sense than a cul-de-sac.

Action: DAB moved to recommend approval of the petition. Motion passed 8-0.

Public Agenda

This portion of the agenda provides an opportunity for citizens to present items not shown as part of the regular meeting agenda.

Scheduled items

Captain Max Tenbrook, Police Professional Standards, introduced himself as supervisor of the division. He explained that the division focused on community involvement and being accountable to the public. He said that some awareness might exist about a focus to avoid racial profiling in police officer actions. To further clarify, he explained that police were bound to report any racial complaints.

Captain Tenbrook said a procedure exists for citizens to report any concerns regarding involvement with police and that the procedure had been recently streamlined. He encouraged

the Board and the public to access the form on the city's website to report concerns as well as compliments. Several DAB Members noted Police actions deserving compliments.

Off-agenda items

Wanda Thimesch, 1350 Emelia, thanked the Board and the Council Member for the response in addressing issues reported at the last meeting regarding Cotillion patrons disrupting the neighborhood as well as causing safety and security issues including noise, trash, public urination, blocked driveways, and autos exiting through a field to access a sand road instead of exiting through the main road at 111th Street to Kellogg. She said the increased police efforts had made a positive difference in the past month. Thimesch also said police had reported that the Cotillion owners had agreed to place barriers around the parking lot to prevent people from driving through the field toward the Thimesch home and others.

Catherine Leslie, a Cotillion owner, responded that the homeowners with concerns should have contacted her or her husband. **Lowell Stukey, 1231 S. Fieldcrest**, who presented the issues to the Board last month with Thimesch, said that prior efforts to communicate the concerns were not recognized by the Cotillion owners.

Action: Receive and file.

Board Agenda

Updates, Issues, and Report

Report on activities, events, or concerns in the neighborhoods and/or District V.

Council Member Martz discussed the issue of siting the downtown arena and answered a few questions. He also shared economic development information on New Market Square to date such as investment in site, building and public improvements totaling over \$45 million; all private investments; 1,500 jobs have been created; approximately \$1.5 million annual commercial property taxes; and, an estimated \$14 million in sales tax generated annually. Additional plans were also shown on a map for future phases that will increase all of the figures to date. He noted that an additional spotlight would be installed on Maize Road at the entrance near Panera Bread Company. The light will be paid for entirely by private funding. The spotlight on Maize at Target was paid for by 75% private funding.

Council Member Martz also informed the Board of a possible upcoming Planning request to place a cell tower on the south side of 21st Street, west of Maize Road.

With no further items, the meeting was adjourned at 9:40 p.m.

The next regular meeting for District Advisory Board V is scheduled at Auburn Hills Clubhouse at **7:00 p.m. on November 7, 2005** the first Monday of the month.

Respectfully Submitted,

Dana Brown, Neighborhood Assistant
City Council District V

Guests

Wanda Thimesch, 1350 Emelia

Gerald Thimesch, 1350 Emelia

Lowell Stucky, 1231 S. Fieldcrest

Hugo F. Gutierrez, 310 Maple Lane

Luz E. Rueda, 338 S. Maple Lane

Catherine Leslie, 2310 Pepper Ridge Circle/11120 W. Kellogg

Teresa Simone, 334 Maple Lane

Clete Dold, 218 S. Breezy Point Circle

James Jahansooz, 3240 Forest Lakes

Dr. C. Lee, 1367 N. Westlink